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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,900	05/09/2001	Scott Bushman	2000.042200	3953

23720 7590 04/29/2003  
WILLIAMS, MORGAN & AMERSON, P.C.  
10333 RICHMOND, SUITE 1100  
HOUSTON, TX 77042

EXAMINER	
YOUNG, CHRISTOPHER G	
ART UNIT	PAPER NUMBER
1756	

DATE MAILED: 04/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicati n No.

09/851,900

Applicant(s)

Bushman et al.

Examiner

Young

Group Art Unit

1756

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 4/14/03
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-24 is/are pending in the application.
- Of the above claim(s) 12-24 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-11 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_.

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

1. This Office action is responsive to the paper filed April 14, 2003 (Paper No. 5).
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Adams.

The discussion in the remarks of the amendment explaining why the scope of the protection sought is patentable over the applied prior art of record has been carefully considered but is not deemed to be persuasive for the reasons of record as set forth in paragraph 4 of the last Office action in combination with the following remarks.

The Examiner has carefully considered applicant's comments with respect to the rejection of record but does not find them to be persuasive. Applicant's assertion that Adams is merely drawn to determination of field curvature is in error. It is clear from reviewing the reference at column 6, line 39 - column 11 line 63 that machine focus is also a parameter determined through the method disclosed in the patent. In viewing a number of the features of the patent, including determination of field curvature, it is clear that determination of the focal plane with the respective light source for the photoresist is being determined. It is also clear that in processing the semiconductor substrate that energizing the light

source must take place. Determination of the focal plane with subsequent illumination of the substrate would be meaningless without determination of the surface of the photoresist layer. Although Adams does not particularly point out, distinctly claim, or explicitly state that the top surface of the photoresist is determined through measuring, it is clear that many of the parameters determined within the metes and bounds of the reference clearly require determination of the surface of the photoresist. Absent objective evidence of high probative value to the contrary showing that Adams does not determine the surface of the photoresist layer in their processing set forth in the patent, the prima facie obviousness rejection of record will be maintained.

The Examiner also relies on all comments already of record as set forth in paragraph No. 4 of the previous Office action. It is clear that to determine the focal plane as set forth in Adams, one of skill would necessarily need to determine the position of the top surface of the photoresist to achieve proper processing of the photoresist layer.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of

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a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Young, whose telephone number is (703) 308-2984. The examiner can normally be reached on Monday through Friday from 8:30 to 5:00.

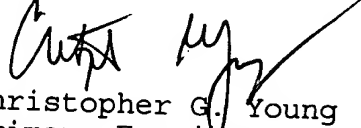
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff, can be reached on (703) 308-2464. A Fax communication that is for a non-final fax should be sent to (703) 872-9310. An after final fax should be sent to (703) 872-9311.

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Any inquiry of general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.



Christopher G. Young  
Primary Examiner  
Art Unit 1756

C. Young:cdc  
April 25, 2003